

[15th March 1922]

IV

A BILL TO AMEND THE COURT FEES ACT, 1870.

The hon. Mr. K. SRINIVASA AYYANGAR :—“ Mr. President, I have gone through the various amendments since yesterday. I think in a few cases the language requires alteration and I have so altered it. I have got a copy of the alterations here.”

The hon. the PRESIDENT :—“ If there are a number of changes which the hon. the Law Member now proposes to bring forward, I think in fairness to the House I should circulate them first. I think the best course will be for this motion to be formally adjourned till we have done with the hon. Mr. Habib-ul-lah's Bill (the Stamp Bill) and in the meantime I will have copies of the changes typed and put into the hands of hon. Members so that they may be able to follow them easily.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“ I am very thankful to you, Sir. I move that this subject may be taken up after the Bill to amend the Stamp Act is disposed of.”

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“ I second it.”

The motion was put and agreed to.

V

A BILL TO AMEND THE INDIAN STAMP ACT, 1899.

SCHEDULE I-A, ARTICLE 20.

Amendment 18.

Rao Bahadur A. S. Krishna Rao Pantulu did not move the following amendment and it was therefore deemed to have been withdrawn :—

18. *Under the head ‘ Proper stamp duty ’ substitute the words ‘ ten annas ’ and ‘ one rupee four annas ’ for the words ‘ twelve annas ’ and ‘ one rupee eight annas ’ respectively.*

SCHEDULE I-A, ARTICLE 25.

Amendment 19.

Mr. A. RANGANATHA MUDALIYAR :—“ Sir, I beg leave to move the amendment standing against my name. It reads as follows :—

19. (i) *In column 2 against clause (a) for the words ‘ seven hundred and fifty rupees ’ substitute the words ‘ five hundred rupees ’.*

(ii) *In the same column against clause (b) for the words ‘ three hundred and seventy-five rupees ’ substitute ‘ two hundred and fifty rupees ’.*

“ In commending it for the acceptance of the House I wish to emphasise the fact that most of those who take to education and even to higher education are people drawn from the middle classes. They find education rather a costly affair. The two years' course in the Law College with the heavy fees and the subsequent year's course as an apprentice are all very costly. As a matter of fact, out of the hundreds of graduates turned out of the Law College, comparatively a small number only undergo the apprentice course, and I think the effect of this enhancement would result in still further reducing the number of students who will take to this apprentice course. I

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do not think the Government could contemplate such an event with equanimity.

“If the number of students undergoing the apprentice course gets reduced, it would mean a reduction in the income the Government expect by way of fees for enrolment as High Court vakils. They will be driving a large number of people to go to the mufassal which perhaps may to some extent result in less efficiency of the mufassal bar. Looking at it from any point of view I think, Sir, this enhancement of fees seems to be most undesirable. It cannot be said that law alone should be penalised in preference to other professional courses. For example, those who take to medicine are not charged with such heavy fees. Further the amount was formerly only Rs. 250 or so and it was raised to Rs. 500 only recently in or about 1899. It cannot therefore be said that this fee has been unchanged for the last thirty years as was stated in connexion with another matter. All my remarks apply to the case of advocates also.”

Mr. C. NATESA MUDALIYAR :—“I gave notice of a similar motion and I take this opportunity of seconding this. Sir, generally it is the young man of the middle class that has an aptitude to scrape together all the means at his disposal and pass the examinations. After passing the apprentice examination he has to pay a premium to the practitioner under whom he serves as an apprentice. After passing the apprentice examination he has to pay a stamp fee of Rs. 500 to be enrolled as a High Court vakil. Here comes the difficulty. The parents of these young men even while educating them find the task a difficult one and it is possible for them to help the boys only bit by bit by paying the college fees in instalments and such other ways. But when they have to pay a lump sum they are at their wit's end. To increase the present rate by Rs. 250 is a huge addition for a middle class man. Rupees 250 by itself might be a small amount; but Rs. 250 plus Rs. 500 is a sum which it is difficult for a middle class man to pay all at once. While the other professions have free entrance, why should the legal profession alone be penalised? I can very well understand if it is said that litigation should be made more costly but not the legal profession. Sir, I request the Council to save these young men from being asphyxiated even before they start life.”

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“Sir, I believe it is not unknown to several hon. Members of this House that I have myself the honour to belong to the legal profession in which I spent a good part of my life; and as such they will believe me when I say that I have my entire sympathy for the profession. The question now is not whether the House is asked to issue an order against its own sympathy for a particular class or profession but whether it would be justified in making anything like a differentiation between one class of taxpayers and another. Yesterday, Sir, we were discussing the broad principles that have been kept in view in the framing of the schedule which is now being considered. It was then explained and I assume the House also fell in with that view on the matter of policy. We do not wish to tinker with individual items in the existing schedule 1 of the Stamp Act but we have adopted the principle of raising certain items by certain percentages. It was also explained, Sir, that the

[Mr. Muhammad Habib-ul-lah Sahib] [15th March 1942]

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lowest percentage which we had adopted in the framing of Schedule 1-A is 50. The House I think accepted that principle and turned down the motion that had been brought forward by my friend Mr. A. S. Krishna Rao which aimed at the reduction of that percentage from 50 to 25. Now in this particular case also, Sir, the ratio of increase is only 50 and as such it cannot at all be said that we have dealt with this class of very useful members of society indeed in any way harsher than the poor tax-payer of the land. For it should be remembered that in the case of the instruments which are executed even for small sums of money from 1 to 50, from 50 to 100 and from 100 to 200 we have adopted a scale of increase at 50 per cent. Now, Sir, it is, therefore, rather hard to agree to any proposal whereby any general tax-payer will have a right to say that a particular class of individuals has been treated differently from himself. I quite appreciate the enormous expense which a young man who joins the Law College has got to undergo during the period of his tuition there. I also recognize the expense which he has to incur while serving as an apprentice under a lawyer. All this may be regarded as something like sowing before one reaps. It may be regarded as capital for the trade or calling which one has chosen for himself. These young men appeared in a deputation before the Select Committee when they sat for the purpose of considering this Bill and laid almost identical representations before the Select Committee who gave this matter their most careful consideration. From the report of the Select Committee it will appear to the House that the Select Committee was not very much convinced of the necessity for making anything like a change in the entry that already found a place in schedule 1-A. I merely invite the attention of the House once more to what the Select Committee have said: 'A deputation of the apprentices-at-law waited on us and represented that even the existing duty of rupees five hundred for enrolment as a vakil of the High Court was being felt as a heavy burden and that any increase would be an unbearable hardship. We have given our best attention to their representations, and we consider that no sufficient case has been made out to reduce the duty which the Bill imposes for entry as an advocate or vakil on the roll of the High Court.' But, Sir, the Select Committee considered that an entry which had been made against the attorneys-at-law which aimed at the exact doubling up of the existing rate was not justifiable and the Committee in the exercise of their discretion reduced that amount from 500 to 375. There is one point, Sir, which strikes me as worthy of consideration. When the deputation waited on the Select Committee the fact was pressed that these young men who have already enrolled themselves as apprentices-at-law and who probably expected to get through their apprentice course by the end of this year had already done so under the expectation that no higher fee than Rs. 500 would be necessary for them to be enrolled as vakils of the High Court. It was also contended that inasmuch as this new condition was sprung upon them as a surprise it was at least equitable, if it was not possible to reduce the fees absolutely, it was at least equitable that in their case an exemption may be granted. We have some such motion in the name of the hon. Member Mr. Natesa Mudaliyar and I think I will be prepared to consider that suggestion as favourably as the House will permit me to do. Barring that, Sir, I think I cannot make myself a party to anything like a distinction in taxation between individuals and individuals."

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Schedule I-A, Article 25—*cont.*

Mr. P. SIVA RAO :—" Sir, I have given notice of a similar motion which is tabled as No. 23. I wish to say a few words in support of this amendment. As has been well pointed out, Sir, the profession of law is one of the costliest professions that we come across. It has to be remembered that it is only graduates in arts that are eligible for a law course and it has also to be noted that before becoming a High Court vakil one has to undergo an apprenticeship for about a year. That means again cost, residence in the metropolis, attending High Court and so forth. In addition to all that he will have to pay an appreciable fee to the vakil or advocate with whom he is attached. With all that he has to undergo an examination for which also he has to pay a fee; it has to be remembered, Sir, that these apprentices almost always come from the middle classes and the raising of the fee for enrolment from Rs. 500 to 750 would mean a serious and crushing burden upon this class of people just at the threshold of their career. The hon. the Revenue Member started by saying that he is himself a lawyer and he is all sympathetic towards them. But he never had occasion to be enrolled and never felt the pinch of it. He enunciated while opposing this amendment the principle that he would be favouring one person at the expense of another if he favoured this amendment. In other words, he said that if he supported this amendment he would be guilty of preferential treatment to the class of legal practitioners. Well, Sir, by this increment from Rs. 500 to Rs. 750 the Government seem to look down upon the members of the legal profession. They want to make the profession much more costly than what it now is. I wish the House to consider whether the increment will bring about any serious increase in revenue and I do not think we will have that result. The number of annual enrolment comes to about 20 or 30."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" The hon. Member is misinformed about the statistics. The number is between 100 and 125."

Mr. P. SIVA RAO :—" Very well, Sir, even though I take the figures of the hon. the Revenue Member, the revenue that they can get by means of this increment is not appreciable. They can very well afford to forego this item of increase and make the legal profession less costly than what it would otherwise be. In any event, there is no good of saying that so far as this particular year is concerned, some concession will be shown and the present set of apprentices will not be asked to pay the higher rate. As a matter of principle, as the legal profession is very costly, I seriously object to the raising of fees prescribed for entry of an advocate or vakil or attorney."

Mr. C. V. VENKATARAMANA AYYANGAR :—" I also support the motion now before the House, Sir. At the same time I remember the advice given by the hon. the Finance Member that consistently with what I said at the time of the budget discussion, I must support taxation on lawyers. I must first of all say that I have been misunderstood. Not only has the hon. the Finance Member misunderstood me, but a respectable lady has also misunderstood me and wrote to me a strongly worded letter saying that I was wrong in recommending taxation on prostitutes. All I meant to say was that Kautilya said that one of the sources of revenue was by imposition of

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taxes upon lawyers and prostitutes. I am against all additional taxation until all possible retrenchments are made.

“Coming to the present subject, I am afraid that there is a misapprehension that this is a tax upon lawyers. It is not at all a taxation upon lawyers. It is a taxation upon apprentices. Though there are various apprentices in various other branches of profession in no other profession is an apprentice taxed. Even here after the apprentice gets into the profession there is time enough to tax him; and the lawyers are already taxed by way of income tax, profession-tax, etc., etc. Therefore to tax a man when he is learning a profession and before he enters the profession and begins to make any income whatever, is rather a step-motherly feeling and I believe that even the original levying of a tax on apprentices was probably done in good old days, when barristers looked on vakils with an eye of jealousy. Probably in those days taxation was found necessary to limit the number of lawyers. In any case the tax that is already levied is sufficiently high and even accepting the view of the hon. the Revenue Member, the additional revenue that can be derived from this source will only be Rs. 20,000 or so. In the interests of education, and in the interest of the profession, I do not think it is desirable to levy additional fee on the apprentices-at-law. I therefore once more appeal to the hon. the Revenue Member that considering the way in which we have supported the financial Bills in this House, he will be pleased to show some concession in this respect and accept this amendment.”

Mr. P. T. RAJAN :—“I beg leave to move my amendment, Sir.”

The hon. the PRESIDENT :—“I would point out to the hon. Member that the Council has before it the amendment to reduce the fee from Rs. 750 to Rs. 500. The hon. Member's amendment to increase it to Rs. 1,500 cannot be taken up now.”

Mr. P. T. RAJAN :—“Ever since the new Reforms, all the taxes have fallen very heavily on the poorer classes and it is high time that the Government make the richer class pay. If we want money, if the Government wants to increase the revenue, they must make those people who are either rich, or who anticipate to become rich in the course of a few years, to contribute to the revenue. Further, my idea in opposing this amendment is this: I want, if possible, to reduce unnecessary litigation. If we are going to have a cheap bar, it will merely induce people even on the slightest provocation to go to a lawyer and engage him. If it is made impossible for the clients to have cheap lawyers, it will induce them to have the cases settled out of courts. For these reasons, I beg to oppose this amendment.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“There are several amendments of the same nature as the one we are considering of which notices are given. Some want to reduce the fee to Rs. 500, some to Rs. 600 and others to have the old rate for a short time and then have the rate proposed in the Bill. I do not know whether the Government will oppose all of them. With reference to those who are already apprentices and those who will undergo their apprentice course this year, I think it is only just to allow them the concession of the present rates. They have entered the course under the belief that they would have to pay the old fee. With regard to

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the others, Rs. 750 is very high. But there is this financial deficit also facing the province. So if, with regard to those who are already undergoing the apprenticeship course, Government are prepared to allow the old rate, we may easily come to an understanding on this amendment."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—
"I think I had probably not very definitely stated—I wish now to state it again—that I was prepared to accept amendment Nos. 26 and 28, that in the case of those whose apprenticeship will expire by 31st December 1922, the new rate need not be made applicable. Exception will be made in their case."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I think I must say a word with reference to the opposition of my friend Mr. Rajan. Of course it is a kind of retaliatory measure to amendment accepted by this House yesterday with reference to the barristers. He felt keenly that the fee for appearance of barristers is unjustifiable and therefore he wants to increase the fee for entrance as a vakil or advocate."

The hon. the PRESIDENT :—"The hon. Member Mr. Rajan has not yet moved his amendment. At present the motion before the House is to substitute the words 'Five hundred rupees' for the words 'Seven hundred and fifty rupees'."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Very well, Sir, My friend Mr. Rajan has been driven to this course which he thought to be justifiable as tending to reduce cheap litigation. It is rather remarkable coming from a barrister. But certainly it should not be done by penalising entrance into the profession. Is there any other profession which contributes at the entrance so much as the lawyers are now doing? Is there any entrance fee in the engineering profession of Rs. 500? Do the medical men pay any stamp duty for practising their profession? I should like to know if there is any other profession which pays as much as the lawyer does for the purpose of entering into the profession. This is purely on the English analogy. A good deal has been said yesterday about the scheme of taxation in England and no hon. Member has referred to this question and I wanted to find out what the corresponding contribution is at the entrance of barristers in England upon the exercise of the legal profession. I have received two different opinions—one that there is no such contribution, and the other that the contribution does not come to more than £30 at the outset."

Mr. P. VENKATASUBBA RAO :—"They have to pay £100 in all."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I wish to ask my hon. friend whether he means that £100 has to be paid to the Inns or to the State by way of stamp duty."

Mr. P. VENKATASUBBA RAO :—"By way of stamp duty, Sir."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I was told by a friend of mine, Sir, that it is not more than £30."

Mr. ABBAS ALI KHAN :—"Probably he refers to me. If it is so, I was wrong."

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Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"There is another hon. gentleman who said that it was £30. I do not know whether he will also say that he was wrong. The fact that he does not rise is a presumption that he sticks to his statement. Therefore unless the hon. the Law Member or the hon. the Revenue Member or the hon. the Finance Member gives us the exact figure, I will assume that it is only £30 there which is equal to Rs. 450."

Dr. P. SUBBARAYAN:—"I think the hon. gentleman has misunderstood what I said. I think all of them are wrong. A barrister has to pay £30 to his Inn and another £30 when he enters the bar, in all £60, which will go to the State and not to the benchers as my hon. friend wants to put it."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"From what the hon. Member has said it is clear that the total contribution is £60. There is also a similar fee here paid by the apprentice to the vakil under whom he undergoes the course. But that is an entirely different matter."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"That is not correct, Sir. I understand the hon. Member who is himself a barrister to say that the £60 go to the State."

Dr. P. SUBBARAYAN:—"Yes, Sir. When we enter the Inns of Court we pay £30 and again when we enter into the bar we pay another £30."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I am afraid my friend Dr. Subbarayan has misunderstood the whole matter. Sir, my contention is this: what is it that is paid at the call to the bar? And my hon. friend Mr. Subbarayan says it is £30. We have absolutely nothing to do with the £30 that is paid at the time when they enter the Inns of Court. All that I submit is that we must clearly know what it is that is paid at the final call to the bar and my hon. friend says it is £30, and here it is already Rs. 500. I therefore submit that the entrance to the profession itself need not be penalised. It seems to me, Sir, that seeing that there is no such fee in any other profession, there should be no such increase or, at any rate, not as much as is now proposed."

1-45 p.m. Diwan Bahadur R. Venkataratnam Nayudu moved the closure which was carried.

Amendment 19 to article 25 was then put to vote and lost.

On the motion of Mr. A. Ranganatha Mudaliyar, a poll was taken with the following result:—

Ayes.

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| 1. Rao Bahadur K. Gopalakrishnayya. | 10. Mr. P. Siva Rao. |
| 2. Mr. C. Natesa Mudaliyar. | 11. Mr. C. V. Venkataramana Ayyangar. |
| 3. Rao Bahadur A. Ramayya Punja. | 12. Mr. S. Muttumaniacka Achari. |
| 4. Mr. W. P. A. Saondara Pandia Nadar. | 13. Rao Bahadur C. V. S. Narasimha Raju. |
| 5. Mr. T. Somasundara Mudaliyar. | 14. Mr. A. Ranganatha Mudaliyar. |
| 6. Mr. N. A. V. Somasundaram Pillai. | 15. Mr. M. K. Seturatnam Ayyar. |
| 7. Mr. S. Somasundaram Pillai. | 16. Mr. T. Sivasankaram Pillai. |
| 8. Mr. A. Subbarayudu. | 17. Mr. M. Suryanarayana Pantulu. |
| 9. Diwan Bahadur M. Ramachandra Rao Pantulu. | 18. Mr. T. Arumainatha Pillai. |
| | 19. Rai Sahib E. C. M. Mascarenhas. |

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Schedule I-A, Article 25—cont.

Noes.

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| 1. The hon. Sir Lionel Davidson. | 20. Mr. S. T. Shanmukham Pillai. |
| 2. " Sir Charles Todhunter. | 21. Rao Bahadur T. A. Ramalinga Chettiyar. |
| 3. " Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur. | 22. Mr. C. Ramalinga Reddi. |
| 4. " Mr. K. Srinivasa Ayyangar. | 23. Mr. O. Tanikachala Chettiyar. |
| 5. " Mr. P. Ramarayaningar. | 24. Mr. A. T. Muttukumaraswami Chettiyar. |
| 6. " Rai Bahadur K. Venkata Reddi Nayudu. | 25. Mr. V. Pakkiriswami Pillai. |
| 7. " Rao Bahadur A. P. Patro. | 26. Mr. P. T. Rajan. |
| 8. Mr. C. P. Ramaswami Ayyar. | 27. Dr. P. Subbarayan. |
| 9. Mr. T. E. Moir. | 28. Mr. T. C. Tangavelu Pillai. |
| 10. Mr. N. E. Marjoribanks. | 29. Mr. P. Venkatasubba Rao. |
| 11. Mr. F. J. Richards. | 30. Diwan Bahadur R. Venkataratnam Nayudu. |
| 12. Mr. C. W. E. Cotton. | 31. Mr. Abbas Ali Khan Bahadur. |
| 13. Mr. R. Littlehales. | 32. Mr. Ahmad Miran Sahib Bahadur. |
| 14. Mr. E. Periyannayagam. | 33. Khan Sahib Muhammad Abdur Rahim Khan Sahib. |
| 15. Mr. R. K. Shanmukham Chettiyar. | 34. Mr. L. C. Guruswami. |
| 16. Mr. A. Ramaswami Mudeliyar. | 35. Mr. R. T. Kesavalu Pillai. |
| 17. Mr. K. Adinarayana Reddi. | 36. Mr. P. Venkatarangayya |
| 18. Mr. R. Appaswami Nayudu. | 37. Rao Bahadur T. Namburumal Chettiyar. |
| 19. Rao Bahadur V. Appaswami Vandayar. | |

The amendment was lost, 19 having voted for and 37 against.

Amendment 20.

Amendment 19 to article 25 having been lost, the following amendment standing in the name of Mr. C. Natesa Mudaliyar fell through in consequence :—

20. (i) *In column 2 against clause (a) for the words 'Seven hundred and fifty rupees' substitute the words 'Five hundred rupees.'*

(ii) *In the same column against clause (b) for the words 'Three hundred and seventy-five rupees' substitute the words 'Two hundred and fifty rupees.'*

Amendment 21.

The following amendment standing in the name of Mr. B. Muniswami Nayudu was owing to the absence of the hon. Member not moved and was therefore deemed to have been withdrawn :—

21. (i) *In column 2 omit 'Seven hundred and fifty rupees' and substitute 'Six hundred rupees.'*

(ii) *In the same column omit 'Three hundred and seventy-five rupees' and substitute 'Three hundred rupees.'*

Amendment 22.

MR. N. A. V. SOMASUNDARAM PILLAI :—"I beg to move the following amendment standing in my name :—

22. (i) *In column 2 against item (a) omit the words 'Seven hundred and fifty' and insert instead 'Six hundred.'*

(ii) *In the same column against item (b) omit the words 'Three hundred and seventy-five' and insert instead 'Three hundred.'*

"Sir, we know full well that the hon. the Revenue Member may not be inclined to say that there is no increase at all with reference to the stamp duty payable by the vakils and attorneys. It is therefore necessary that we

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should give a figure raising the stamp duty by some per cent; instead of leaving it at 'five hundred' and 'two hundred and fifty', I think it would be reasonable to make 'five hundred' into 'six hundred' and make 'two hundred and fifty' into 'three hundred.'

"The hon. the Revenue Member himself admitted that though he would be inclined to feel sympathetically towards those young men who are just entering their lives and who are called upon to pay a heavy stamp duty, yet he feared he would lay himself open to the blame that he has been partial to one class of tax-payers against others. But the proposal that I make will altogether absolve him from any such blame. The only question to be considered is whether it is necessary that in the case of High Court vakils and attorneys there should be a raising of stamp duty to the extent of 50 per cent. The hon. the Revenue Member stated that, with regard to the other taxes, the House has more or less agreed to raise the duty by 50 per cent; but this thing has to be considered in reference to that matter, namely, that with regard to those other duties the amount was a very small one and the duty had to be paid by persons who did not enter into any professions at the time but by persons who were already engaged in the service. Part of their duty is to enter into transactions. But so far as the present stamp duty is concerned, it concerns persons who are just entering life and who are just entering their professions. As has been pointed out by some of the previous speakers, there is no profession wherein a person is called upon to pay any such stamp duty on entering the same. It is only in regard to vakils that this is levied. I may bring to the notice of this House that as a matter of fact most of the persons who study for law and who enter the profession of the bar are very poor and not persons who are rolling in wealth. They are persons who have to find money for enabling them to study for the law course. Persons find great difficulty in getting money to pay the masters under whom they have to get themselves apprenticed. At the very outset they are also obliged to borrow money for the purpose of enabling them to enter the profession. If it is not out of place, I may state my own case and the same is the case with many of my friends. At first we were obliged to become teachers for the purpose of raising some money to enable us to study for the law course and then after saving a few rupees we had to enrol ourselves as High Court vakils. As in my own case, I may say that it is the experience of a number of persons who have risen high in life that it was only with very great difficulty they could find money to study for law. We also know that several people borrow money for studying for the law course; it is a very costly course. Therefore I request hon. Members of this House to take that into consideration. Do hon. Members really want that these young men who have got the genius in them, who have got bright prospects before them, should be altogether shut out from the profession to which they are best fitted simply because it is contemplated to raise the stamp duty? Do hon. Members want to put a bar upon them by reason of the stamp duty? So far as the vakils are concerned, there is no analogy at all between the stamp duty payable by them and that payable by other class of persons. With regard to other class of persons they pay stamp duty for the document they execute. As regards vakils, attorneys, etc., they are persons from whom the Government expect to get a very large amount in the

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shape of income-tax when they begin to earn, but this is not the case with other persons to whom the stamp duties are fixed. In the case of vakils there is a prospective chance for the Government to get money in the shape of income-tax and other things.

“I also wish to bring to the notice of the House another fact, namely, that most of the public men have been drawn from the ranks of the bar and it is the bar that has been even ready to place the services of its members in the cause of the country, in the cause of the poor and the distressed people and in the cause of anything that tends to the moral and mental advancement of the people. Therefore it is that the young men who are prepared to enter that profession must be enabled to do so without any obstacles being put in their way. I was therefore somewhat surprised to hear my hon. Friend Mr. P. T. Rajan asking for the enhancement of the duty with a view to putting an end to unnecessary litigation in the country. Of course, High Court vakils and attorneys are not the only lawyers. There are the first-grade and the second-grade pleaders. It is only if a person wants to become a High Court vakil or an attorney that he has to pay the enhanced stamp duty. There are vakils practising in the mufassal in all the courts and it is not necessary in their case. So far as the mufassal is concerned, unnecessary litigation will go on as usual in spite of the imposition of this stamp duty. If it is intended to stop unnecessary litigation in the mufassal, the Legal Practitioners Act ought to be amended. So far as the mufassal is concerned, the raising of the fees for High Court vakils and attorneys will have very little effect.

“Again, the hon. the Revenue Member stated that the number of High Court vakils enrolled year after year is about 100 and odd. How many of these are practising in the High Court? How many of these are going away to the mufassal? I may point out to the hon. the Revenue Member that most of the persons who go away to the mufassal for practising would not care to become High Court vakils hereafter if the stamp duty is raised. As a matter of fact, the privileges appertaining to the High Court vakils and the first-grade pleaders are more or less the same. So far as everyday practice is concerned, there is not much difference. Only about 10 per cent of those who are enrolled as High Court vakils will be practising in the High Court. The percentage of people who go away to the twenty and odd districts in the Presidency for practising would enormously increase.”

The hon. the PRESIDENT:—“I fear the hon. Member is straying far from the specific issue before the House, which is to *omit* the words ‘Seven hundred and fifty’ and *insert* instead ‘Six hundred’.”

MR. N. A. V. SOMASUNDARAM PILLAI:—“All that I want to point out is that in case the stamp duty is raised, there may not be many who enrol themselves as High Court vakils but only a few people who want to practise in the High Court. I, however, bow to your ruling, Sir. I therefore submit, Sir, that, taking into consideration the difficulties that lie in the way of these young men in getting themselves trained and qualified as B.L.’s or M.L.’s, the stamp duty need not be raised to such a large extent as proposed in the Bill. With these few words, I commend my amendment for the acceptance of the House.”

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Schedule I-A, Article 25—cont.

Rao Bahadur K. GOPALAKRISHNAYYA :—“ Sir, I rise to second this amendment. This case is quite different from other cases. No doubt it may be very good on the part of the hon. the Revenue Member to expect some revenue from this source. But as has been pointed out by the hon. Member who moved this amendment the proposal to raise the stamp duties in this respect would scare away practitioners from enrolling themselves in the High Court. It is patent that when a young man enters the profession of the Bar he is not in a position to get his money ; for he has no money of his own, as he has to depend on the protector or some member of the family for the money, who may be unwilling to advance this money to this budding practitioner who intends to enrol himself as a High Court vakil. Therefore there will be a great alarm in his mind that he will not be in a position to do so. In consequence, he may go to the mufassal to practise in the district courts. There is a provision in Hyderabad that nobody should enrol himself as a vakil unless there is a vacancy. Fortunately, we have here the privilege of being enrolled without any limit as to the number. Apart from that privilege there must also be some reasonable latitude in taxing these young men who enter this profession after great trouble. The High Court vakils hitherto pay Rs. 500 before they enter the profession : I think it may be proper to tax them after they enter the profession annually for renewing their sanads as in the case of mufassal pleaders, if the hon. the Revenue Member agrees to reduce the existing rate to a considerable degree.

“ The people actually practising will be able to pay as they earn money. I am simply bringing to the notice of the hon. the Revenue Member that 20 per cent which is now proposed in this amendment is quite reasonable and sufficient in the case of practitioners who are just to be enrolled as High Court vakils. Therefore, I second the amendment.”

The Council adjourned for lunch at 2-5 p.m. and re-assembled at 3 p.m.

Mr. O. TANIKACHALA CHETTIYAR :—“ Sir, after listening to the eloquent and cogent arguments advanced by Mr. N. A. V. Somasundaram Pillai, I feel that I must support the amendment (Mr. C. V. Venkataramana Ayyangar—‘ Hear, hear ’) to reduce the figure to Rs. 600. His statement of the history of many a law student who ultimately became a lawyer reminds each of us of our own past history. I for one am not ashamed to say that I was in such circumstances that I was obliged to work for my living, and with the wages I got I studied law. The condition of several students who take up law is not dissimilar to mine. The hon. the Revenue Member said by way of objection to the last amendment, which was thrown out for reducing the amount from Rs. 750 to Rs. 500, that the House had decided to increase all taxes by 50 per cent. I quite agree that in transactions conducted by men *inter se* they must subject themselves to the exigency of State demands. So far as these young men who are apprentices at law and who wish to be enrolled as High Court vakils or advocates are concerned, their position is that they are not managers of their own affairs but they depend for their maintenance and support upon their parents or other relations or on kind friends. So there is a distinction between the student who has just completed his course and is still dependent for encouragement on his relatives and others who enter into transactions such as conveyances of

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[Mr. O. Tanikaohala Ohettiayar]

Schedule I-A, Article 25—*cont.*

property, etc. Having regard to these conditions and the people who are to be subjected to this enhanced duty at the time of their enrolment, I shall strongly appeal to the members of this House to make a distinction between apprentices who are seeking to enter a profession and who are not masters of their estates and other ordinary citizens who carry on transactions in the ordinary course of life and therefore under the law are liable to pay stamp duties. Even the apprentices are made by this amendment to pay an increased stamp duty of 20 per cent. I think the distinction ought to be maintained, and I request the House to give support to this amendment."

Diwan Bahadur M. KRISHNAN NAYAR:—"Sir, I rise to support this amendment. When the previous amendment was moved, my friend the hon. the Revenue Member said in the course of the discussion that he was prepared to retain the present fee of Rs. 500 in the case of those who had already, in ignorance of the contemplated increase, become apprentices and would be able to enrol themselves before the end of this year. That concession by my hon. Friend was certainly a large-hearted one, and a well-deserved one. But it is only a temporary relief and helps only those who are now apprentices——"

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I did not give that undertaking unconditionally. (Laughter.) I said I was prepared to accept that provided all the other amendments for reduction went by the board."

Diwan Bahadur M. KRISHNAN NAYAR:—"If that was the meaning of my hon. friend he ought not to have given that undertaking in that way. That concession was certainly very much desired by those who are already apprentices, and who, in ignorance of this contemplated increase, have commenced their apprenticeship course. I submit that it is only a temporary relief, and it will not be of any benefit to the new apprentices, as the provision contemplated under this is a permanent increase. My hon. Friend the Revenue Member will surely support me when I say that the House as a whole has been very considerate to him and to the Government in their natural and reasonable attempt to increase taxation for the benefit of the administration. At the same time there are certain limits beyond which we should not go. The speech made by the hon. Mover was a very forcible and touching one and elicited my sympathy in his favour. I had not made up my mind before I heard him. I think, Sir, we ought not to increase the duty to such a large figure as Rs. 750 and Rs. 350 in the case of vakils and attorneys respectively. The Council ought to be content with raising Rs. 500 to Rs. 600, and Rs. 250 to Rs. 300. Certainly the Government requires the assistance of the Council; we are willing, the Council ought to be willing, to assist the Government; but in assisting the Government we should see that we do not unnecessarily increase the burden which is on the shoulders of the apprentices and which they would not be able to bear. I hope my hon. Friend the Revenue Member will accept this compromise."

Mr. S. T. SHANMUKHAM PILLAI:—"Mr. President, Sir, I come forward to support the motion after hearing the most pathetic speech of my friend Mr. N. A. V. Somasundaram Pillai. Some of the young men likely to be affected must be poor. They get themselves educated by selling what

[Mr. S. T. Shanmukham Pillai] [15th March 1922]
Schedule I-A, Article 25—*cont.*

little they have, by mortgaging their property or otherwise. Their prosperity will be seriously affected by this measure. The fee of Rs. 750 is too high indeed. Therefore I support the amendment."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—
"The last speaker, Sir, has practically invoked the sympathy of the House on account of what he called the pathetic appeal made by the mover of this amendment. As I said already, I would beg of the House to remember that if I oppose any reduction in the scale of fees that has already been fixed in the schedule it is not at all for any lack of sympathy for these young men or for the future entrants into the legal profession. I can assure them that I have as much sympathy for them, if not more, as anybody else here. But I want to contest it merely on the ground firstly of justice, and secondly of equity, words which the members of the legal profession constantly emphasise. I said, Sir, that where it is justifiable to tax other individuals on this basis, the members of this profession also should be taxed on the same percentage principles. I say it is not equitable to make any differentiation in taxation between individuals and individuals simply because in this case a few young men are affected and who are more articulate in demanding this concession than the other ignorant people in the villages who probably are even unaware that the Stamp Act is being revised. Therefore, I said, Sir, viewed from any standpoint, it would not be desirable to be carried away merely by sentiment, or by appeals to mercy. I will merely make one or two observations in regard to some of the remarks I have heard. It was mentioned to us that if Rs. 750 was decided upon as against Rs. 500 the future entrants to the legal profession would say farewell and seek 'fresh fields and pastures new.' I am afraid, Sir, that this is putting, as it were, too little value upon the honour of being a High Court vakil and paying very poor compliment to that noble profession. As it is, the mover and the seconder and the other gentlemen who have spoken on this resolution will be satisfied if I agree to the revision of the fee from Rs. 750 to Rs. 600. The bone of contention appears to be a paltry sum of Rs. 150. This paltry sum has not got to be paid monthly or even annually. Once paid, it is paid for ever. So therefore the whole dignity, the entire attraction and all the prospects which a young man has in view in joining the legal profession as a High Court vakil will disappear the moment we demand this additional sum of Rs. 150. That is an argument which I find it difficult to swallow. One hon. Member has practically said that this will scare away practitioners. I for one cannot fall in with that line of argument. It has been sufficiently known that it is not after all the young man who is going to bear this burden; it is some other individual who is going to face the additional burden. It has been made clear that these young men earn nothing by themselves. They have no property of their own from which to meet this demand. Their parents or guardians or somebody else will meet it on their behalf. There is no additional liability against the young men themselves. The parent who has been paying Rs. 500 and who will have to pay Rs. 600 under this amendment can easily bear an additional responsibility of Rs. 150 more.

"When I said I was going to accept item 28 I thought I made it sufficiently clear that while I saw no reason as to why the future entrants into the legal profession should be exempted

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Schedule I A, Article 25—*cont.*

at all from this higher liability because they would be entering it with their eyes open and with a previous knowledge of their obligation, but that in the case of the present young men whose apprenticeship course was to expire on the 31st December 1922, there was, as I said, a semblance of reason at least why they should not be saddled with this additional responsibility. For, I take it, these young men might probably have made arrangements for the purpose of securing the Rs. 500 whereby to enrol themselves in the High Court, and in their case I have not the least objection to allow the exemption; for when I drew attention to that particular amendment which is on the agenda paper, it ought to have been sufficiently plain that it was proposed to be added as a proviso to the existing clause. The proposed amendment is 'In column 2 put a colon after Rs. 750 appearing against clause (a) and add the following proviso:—Provided that in the case of entry as an advocate or vakil by any apprentice-at-law whose period of apprenticeship expires by the 31st of December 1922 the stamp duty will be only five hundred rupees.' When I drew specific attention to the particular item which I said I was prepared to accept, there was no reason why I should have been misunderstood as saying that I was willing to permit this extension to be applicable not only to the present young men, but also to the future entrants. I quite realize the significance of the observation made by my hon. Friend in front of me who has reminded me and all the Members of Government that the House has been very conciliatory in the matter of the two taxation Bills which we had the honour of steering through this Council. I fully confess they have been very conciliatory and, may I add, I was fully confident that they would be so, and I am not at all surprised that they showed that attitude towards us, for I know that they realize their joint responsibility for the conduct of Government; they knew that we wanted more money; they knew that they have to supply us with the necessary wherewithal to conduct the administration and therefore they were very good indeed in having enabled us to secure more money. We are indeed beholden to them for that sympathy and that co-operation. But it does not mean that they demand something like a *quid pro quo* for the attitude which they have displayed until now by asking us to surrender this item of revenue. By itself it is not a small item; it would mean an appreciable reduction in the calculations that we have already made. Therefore, Sir, I hope I will not be regarded as trying to conduct an auction of the fee if I would suggest for the consideration of the House the amendment which stands in the name of Mr. Krishna Rao who, I think, has introduced a reasonable proportion in the ratio of increase by the suggestion which he has made, as his amendment would enable a definite increase of 25 per cent in the existing rate."

MR. O. TANIKACHALA CHETTIYAR :—" May I point out that while I appreciate the hon. the Revenue Member's willingness to agree to Mr. Krishna Rao's amendment to substitute 625 rupees for 750 rupees, Mr. Somasundaram Pillai's resolution comprises both classes of lawyers, namely, vakils as well as attorneys. In the case of the vakils the increase of fee has been reduced from 50 to 25 per cent, that is, from 750 rupees to 625 rupees, but in the case of the attorneys, there is no such amendment tabled by Mr. Krishna Rao. Therefore if in the amendment of Mr. Krishna

[Mr. O. Tanikachala Chettiyar]

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Schedule I-A, Article 25—*cont.*

Rao a like provision is introduced in favour of the attorneys also, I shall be glad to accept it."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—
 "Sir, I hear a whisper, why so much trouble for 25 rupees. Sir, I hope it is realized that our financial position is reduced to that condition that even 25 rupees is not negligible. For, by means of the 25 rupees which I wish to secure from one individual and the extra 2,500 rupees which I hope to secure in all, I will be in a position to meet a part at least of the additional expenditure involved by the revision of the pay of the village officers' establishment. If it is the intention that there should be some reduction, of course I shall certainly give that right to the House to vote as it likes. If there is a desire that there should be some decrease, I would suggest to the House for consideration the amendment of Mr. Krishna Rao which appears something like a reasonable proportion in the increase; particularly having heard the very reasonable suggestion of my friend Mr. Tanikachala Chettiyar urging similar treatment to the attorneys-at-law. This amendment of Mr. Somasundaram Pillai may, I think, be cleared out of the way before we proceed to the other."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Before the hon. Mr. Somasundaram Pillai makes up his mind as regards the course to be adopted, I think it my duty to make it clear that though I have given notice of the motion to reduce the amount to Rs. 625 I am in hearty sympathy with the motion of Mr. Somasundaram Pillai. I do not think that we should at this stage bargain for the sake of 25 rupees. It is true when I suggested the figure Rs. 625 I had in mind a reduction of 25 per cent only. There has been any amount of discussion regarding the proper fee to be levied and there is also a motion for reducing the increase in the case of the attorneys. But it will lead to complications unless we amend that motion as the motion now before the House is regarding both these classes. After all, when the amount of difference is only Rs. 25 I think that in view of the discussion we have had, the hon. the Revenue Member will be pleased to close up the discussion by accepting the motion."

The hon. the PRESIDENT :—"I will now put this motion to the House, namely—

(i) *In column 2, against item (a), omit the words 'Seven hundred and fifty' and insert instead 'Six hundred'.*

(ii) *In the same column, against item (b), omit the words 'Three hundred and seventy-five' and insert instead 'Three hundred'."*

The motion was declared carried.

On the motion of the hon. the Revenue Member, a poll was taken with the following result :—

Ayes.

- | | |
|---|---|
| 1. Mr. R. Appaswami Nayudu. | 10. Mr. W. P. A. Saundara Pandia Nadar. |
| 2. Rao Bahadur V. Appaswami Vandayar. | 11. Mr. N. A. V. Somasundaram Pillai. |
| 3. Rao Bahadur K. Gopalakrishnaaya. | 12. Mr. S. Somasundaram Pillai |
| 4. Mr. S. T. Shanmukham Pillai. | 13. Diwan Bahadur M. Ramachandra Rao Pantulu. |
| 5. Rao Bahadur T. A. Ramalinga Chettiyar. | 14. Diwan Bahadur M. Krishnan Nayar. |
| 6. Mr. O. Tanikachala Chettiyar. | 15. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 7. Mr. W. Vijayaraghava Mudaliyar. | 16. Mr. P. Siva Rao. |
| 8. Mr. C. Natesa Mudaliyar. | |
| 9. Rao Bahadur A. Ramayya Punja. | |

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Schedule I.-A, Article 25—*cont.**Ayes—cont.*

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|--|--------------------------------------|
| 17. Mr. C. V. Venkatramana Ayyangar. | 23. Mr. M. R. Seturatnam Ayyar. |
| 18. Mr. S. Muttumanicka Achari. | 24. Mr. T. Sivasankaram Pillai. |
| 19. Rao Bahadur C. V. S. Narasimha Raju. | 25. Mr. M. Suryanarayana Pantulu. |
| 20. Mr. C. B. Rama Rao. | 26. Mr. T. Arumainatha Pillai. |
| 21. Rao Sahib U. Rama Rao. | 27. Rai Sahib E. M. Mascarenhas. |
| 22. Mr. A. Ranganatha Mudaliyar. | 28. Saiyid Diwan Abdul-Razzaq Sahib. |

Noes.

- | | |
|---|--|
| 1. The hon. Sir Lionel Davidson. | 16. Mr. K. A. Kandaswami Kandar. |
| 2. The hon. Sir Charles Todhunter. | 17. Mr. J. Kappuswami. |
| 3. The hon. Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur. | 18. Mr. A. T. Muttukumaraswami Chettiyar. |
| 4. The hon. Mr. K. Srinivasa Ayyangar. | 19. Mr. M. Narayanadaswami Reddi. |
| 5. The hon. Mr. P. Ramarayaningar. | 20. Mr. V. Pakkiriswami Pillai. |
| 6. The hon. Rai Bahadur K. Venkata Reddi Nayudu. | 21. Mr. P. T. Rajan. |
| 7. The hon. Rao Bahadur A. P. Patro. | 22. Dr. P. Subbarayan. |
| 8. Mr. C. P. Ramaswami Ayyar. | 23. Mr. T. C. Tangavelu Pillai. |
| 9. Mr. T. E. Moir, C.I.E. | 24. Mr. P. Venkatasubba Rao. |
| 10. Mr. N. E. Marjoribanks, C.S.I., C.I.E. | 25. Diwan Bahadur R. Venkataratnam Nayudu. |
| 11. Mr. R. Littlehales. | 26. Mr. Abbas Ali Khan Bahadur. |
| 12. Mr. E. Periyannayagam. | 27. Mr. M. C. Raja. |
| 13. Mr. A. Ramaswami Mudaliyar. | 28. Mr. L. C. Guruswami. |
| 14. Mr. K. Adinarayana Reddi. | 29. Mr. R. T. Kesavulu Pillai. |
| 15. Rao Sahib S. Ellappa Chettiyar. | 30. Rao Sahib P. Venkatarangayya. |
| | 31. Mr. A. M. MacDougall. |

The motion was lost, 28 having voted *for* and 31 *against*.

Amendments 23 and 24.

The following amendments fell through as raising substantially the same question as amendment 22 which was discussed and lost:—

Mr. P. SIVA RAO:—

23. *For items (a) and (b) substitute ‘(a) in the case of an advocate or vakil—five hundred rupees’ and ‘(b) in the case of an attorney—two hundred and fifty rupees’ respectively and retain the provisions of the old Bill in relation thereto.*

Mr. T. ARUNAINATHA PILLAI:—

24. *In column 2 omit ‘seven hundred and fifty’ and substitute ‘five hundred’.*

Amendment 25.

3-30 p.m. Rao Bahadur A. S. KRISHNA RAO PANTULU:—“The amendment that stands in my name runs as follows:—

“25. *Under the head ‘Proper stamp duty’ substitute the words ‘six hundred and twenty-five’ for the words ‘seven hundred and fifty.’*

“Sir, in view of the discussion that we have had already on the motion of Mr. N. A. V. Somasundaram Pillai, I think it is hardly necessary for me to say anything in support of this motion. That motion has been lost by a very narrow majority and the decision was largely influenced by a statement made by the hon. the Revenue Member that the existing stamp duty would be raised only by 25 per cent. That, I believe, seems to be somewhat reasonable under these circumstances. I therefore request hon. Members not to raise further controversy over this question but to accept this motion without further discussion.”

[15th March 1922]

Schedule I-A, Article 25—cont.

Mr. SAIYID MUHAMMAD PADSHA SAHIB :—"I second it."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"As I stated then, Sir, I accept this."

Diwan Bahadur M. KRISHNAN NAYAR :—"In furtherance of what the hon. the Revenue Member himself said on the former amendment before it was put to vote, I beg to state that Mr. Krishna Rao's amendment is only for the reduction of the stamp duty of Rs. 750 required in the case of vakils to Rs. 625. There is no reference made in the amendment to the stamp duty required in the case of attorneys and I understood that the hon. the Revenue Member was prepared to accept 25 per cent increase on the present rate of Rs. 250 in the case of attorneys as well. So that, if you, Sir, and the House will give me permission to meet the wishes of the hon. Member, I will move an amendment to this effect."

The hon. the PRESIDENT :—"Does any hon. Member object to this amendment going forward along with the amendment moved by Mr. Krishna Rao?"

No hon. Member having raised any objection, the amendment was allowed to be moved by Mr. Krishnan Nayar.

Diwan Bahadur M. KRISHNAN NAYAR :—"I beg to move the following amendment to the amendment of Mr. Krishna Rao which is 'to add the words and further substitute Rs. 312-8-0 for the words "three hundred and seventy-five rupees"'"

The amendment was carried.

The amended amendment was then put and carried.

Amendments 26 and 27.

The following motion which stood in the name of Mr. Arpudaswami Udayar was not moved, the member being absent, and was therefore deemed to have been withdrawn :—

26. In column 2 put a colon after 'seven hundred and fifty rupees' appearing against clause (a) and add the following proviso :—

"Provided that in the case of entry as an advocate or vakil by any apprentice-at-law whose period of apprenticeship expires by the 31st December 1922, the stamp duty will be only five hundred rupees."

27. In column 2 put a colon after 'Three hundred and seventy-five rupees' appearing against clause (b) and add the following proviso :—

"Provided that in the case of entry as an attorney by any apprentice-at-law whose period of apprenticeship expires by the 31st December 1922, the stamp duty will be only two hundred and fifty rupees."

Amendment 28.

The following motion was not made :—

Mr. C. NATESA MUDALIYAR :—

'28. In column 2 put a colon after 'Seven hundred and fifty rupees' appearing against clause (a) and add the following proviso :—

"Provided that in the case of entry as an advocate or vakil by any apprentice-at-law whose period of apprenticeship expires by the 31st of December 1922 the stamp duty will be only five hundred rupees"'

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SCHEDULE I-A, ARTICLE 39.

Amendment 29.

Mr. N. A. V. SOMASUNDARAM PILLAI :—"The motion that stands in my name runs as follows :—

29. *In column 2 against item A (b) omit the word 'twenty' and insert instead 'ten'.*

"I beg to state article 39 relates to partnership-deeds. The article now drafted in the amendment Bill runs thus :—

"39. Partnership—

A—Instrument of—

	RS.
(a) where the capital of the partnership does not exceed Rs. 500	5
(b) in any other case	20

"In the existing Stamp Act, article 46, it is fixed that the duty on deeds, where the capital of the partnership does not exceed Rs. 500, is Rs. 2-8-0, and in any other case Rs. 10. Now, they want this Rs. 10 should be increased to Rs. 20 and Rs. 2-8-0 to Rs. 5-0-0. I submit that there is no reason whatsoever for raising the duties cent per cent.

"The development of the country, which will be in the shape of industries and where persons have to enter into partnership with a view to carry on trade or do some useful business, will be much retarded, if the stamp duty is raised as is proposed in the amended Bill. It would be very difficult to have terms of agreements settled between parties, which, in consequence, will lead to enhancement of litigation. It is necessary that persons entering into partnership should reduce their terms to writing.

"With regard to cases wherein the capital exceeds Rs. 500—ordinarily in all cases of partnership the capital invested would be above Rs. 500; generally, it will be Rs. 1,000 or Rs. 2,000—it cannot therefore be said that, the stamp duty should be Rs. 20. It would be a very great hardship upon persons who enter into partnership where the capital exceeds Rs. 500. What I propose is that, instead of Rs. 20, it should be Rs. 10. Otherwise people would be tempted not to reduce their terms of agreement into writing and they will have a different transaction, and, that is, they will simply try to have their terms in memory. This sort of arrangement would create unnecessary confusion among the parties and give room for litigation also. With a view to encourage the system of entering into partnership, it is very necessary that the duties paid on such instruments ought to be a reasonable amount. I, therefore, propose that, instead of Rs. 20, the duty may be Rs. 10."

Rao Bahadur O. V. S. NARASIMHA RAJU :—"I second it."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"Sir, one peculiar feature which has somewhat amazed me since last evening in the course of the discussion of the Stamp Act Amendment Bill has been the great and ceaseless solicitude that is shown by the House to the poor rich. My hon. friend who has moved this resolution seems to be considerably carried away by that sentiment and that sentiment alone. For

[Mr. Muhammad Habib-ul-lah Sahib] [15th March 1922]

Schedule I-A, Article 39—*cont.*

we found him standing up in his place yesterday and pleading on behalf of the poor rich whose transactions are never less than Rs. 85,000 and to-day again he does not at all care to interfere with transactions of smaller nature which are specifically referred to in clause (2). But he wishes the House to agree to a reduction of 50 per cent in the case of item (b) which, from the very context, it is absolutely clear, comprises transactions in which palpably not the poor man but a man higher than the poor will have to pay. I therefore can hardly see the reasonableness of this demand. If he was pleading on behalf of the poor man I could probably have understood him. But, Sir, to be constantly pleading on behalf of a rich man, is a principle which, unfortunately I cannot at all agree to. Probably my friend wants to go back to the old rates of 1889. Here I may add that neither in Bombay nor in Bengal where also they have revised their Stamp Acts has there been a provision for less than Rs. 20 for similar transactions. I would only urge that as an additional reason why the House should not be carried away by any sentiment in favour of the rich. At the same time I would appeal to hon. Members not to make a departure from legitimate course. Let us try to get the proportionate share of taxation from individuals who indulge in transactions of a value higher than what a poor man is able to do by reason of his own circumstances. I therefore see no reason whatsoever to accept the suggestion that we should go back to the old rates and that there should be no increase at all."

Diwan Bahadur M. KRISHNAN NAYAR:—"I think, Sir, that in this particular instance no great hardship is caused. No doubt as my friend Mr. Somasundaram Pillai has stated, the increase is 100 per cent. Though the percentage of increase is 100 the amount after all is not very high. The addition is only Rs. 10 and in the case of dissolution of partnership, where the amount is more than Rs. 500, I do not think that there is any appreciable hardship in increasing the stamp duty from Rs. 10 to Rs. 20. At the same time the amount of Government revenue may be enhanced to an appreciable extent. So that, I think there is no great hardship caused in allowing Rs. 20 to stand."

The motion was, by leave, withdrawn.

Amendment 30.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"I beg to move—

30. Under the head 'proper stamp duty' against item A (b) substitute 'Fifteen rupees' for 'twenty rupees.'

"It will be noticed that in asking for Rs. 15 I am consenting to an increase of 50 per cent. I ask the House to consider whether it is reasonable to increase the existing rate in the case of instruments of partnership exceeding Rs. 500 to the extent of Rs. 50. It may be asked, Sir, that whereas it was a double increase in the case of instruments of partnership where the capital does not exceed Rs. 500 why it should be an increase of 50 per cent only in other cases. I would only request the House to consider as to where they should draw the line if the capital should exceed Rs. 500. In the existing Act the fee fixed is Rs. 5 when the capital of the partnership does not exceed Rs. 500 and Rs. 10 in any other case. Is it to be stated that if the capital of the partnership exceeds Rs. 500, say Rs. 501 or Rs. 502, the stamp duty should be four times the duty fixed for capitals below Rs. 500?

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Schedule I-A, Article 39—*cont.*

Already there is an anomaly in the existing system and that should not be allowed to continue any longer. So long as we are satisfied that it is an anomaly let us not have an unduly large enhancement. Let us be satisfied with a duty of Rs. 15 instead of Rs. 10."

Mr. P. SIVA RAO:—"Sir, I have given notice of a similar amendment which is printed as amendment No. 31 on the agenda. In giving notice of this amendment, I have so far—"

The hon. the PRESIDENT:—"Order, order. Is the hon. Member speaking on his own amendment or on the amendment moved by Mr. Krishna Rao Pantulu?"

Mr. P. SIVA RAO:—"Sir, I am seconding the amendment of Mr. Krishna Rao Pantulu which is comprised in my amendment."

The hon. the PRESIDENT:—"There is no such thing as one amendment being comprised in another. Every amendment that comes on for discussion is dealt with on its own merits. Any reference to or remarks in connexion with any other amendment which may come later on will have to be ruled out. At present the House is considering the amendment No. 30 which is to the following effect: "Under the head "proper stamp duty" against item A (b) substitute "fifteen rupees" for "twenty rupees." I would beg of the hon. Member to confine himself to that particular issue."

Mr. P. SIVA RAO:—"Sir, I beg to second the amendment which has been moved by Mr. Krishna Rao. He proposes to reduce the amount of twenty rupees provided under article 39 of the schedule of the Bill as amended by the Select Committee, which provides that where the capital of the partnership does not exceed Rs. 500, the stamp duty should be five rupees and that in any other case it should be twenty rupees. What the hon. Mover proposes is to reduce the stamp duty in the latter case to Rs. 15. In other words, his amendment comes to this. He is trying to increase the present rate by 50 per cent. When the hon. Member in charge moved for consideration of this Bill and also in his later speeches he was kind enough to say that he was proposing an all-round increase of 50 per cent—"

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I am sorry, Sir, that the hon. Member is misquoting me. What I said was that in a large number of cases there was an increase of 50 per cent all round, that there were a few cases in which the increase was 66 $\frac{2}{3}$ per cent and that there were again a few cases in which there was an increase of cent per cent."

Mr. P. SIVA RAO:—"I will use the words of the hon. Member in charge, Sir. In a very large number of cases there has been a 50 per cent increase. And I would ask with some show of reason why the same increase of 50 per cent which has been adopted in a large number of cases, should not be followed in this case also. Why should this particular case be treated as an exception? The hon. Member may explain why this particular tax-payer should receive prejudicial treatment at the hands of the Government."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I do not wish to repeat the arguments which I have already advanced while opposing the other motion which the House has rejected. I think the hon. Secunder, indulging in legal phraseology, has thrown the onus

[Mr. Muhammad Habib-ul-lah Sahib] [15th March 1922]

Schedule I-A, Article 39—*cont.*

of proving the necessity for doubling the scale in the case of the partnerships comprised under clause (b) of article 39 on Government. I must certainly confess, Sir, that I allowed my feelings of sympathy to outweigh considerations of finance when I was dealing with the reclassification which was proposed in regard to this item. Had I yielded to that temptation, I would have produced a gradation scale under clause (b) whereby the amount of the stamp duty would have varied according to the amount of the partnership involved. But inasmuch as the present Act made no such distinction, and (as I already explained to the House) I did not at all intend to deviate from the principle already incorporated in schedule I of the Stamp Act, I merely followed that schedule and made the necessary changes here and there according to the exigencies of the circumstances. Now in the case of this clause, it will be apparent to every individual that so long as there is no sliding maximum limit fixed for stamp duty, the present fixed maximum will apply to all items of the value of lakhs and lakhs of rupees; and the value of such stamp duty being limited to Rs. 20 can certainly not be regarded as being in any way extravagant. I was not at all keeping in my mind cases where partnerships may be executed for an amount of Rs. 501. I had to keep in mind partnerships of far larger sums, and I believe hon. Members of this House will realize that so far as the City of Madras and a few other cities in this province are concerned partnerships are generally entered into in respect of very large amounts. Is it contended and can it be reasonably contended that in those cases also the stamp duty should be not more than Rs. 10? As I said, if my own inclinations had been permitted a play, I would have produced a gradation scale, but I did not wish to disturb the framework of the schedule attached to the existing Stamp Act. I had simply to retain the present schedule in the existing form, and the stamp duty of Rs. 20 which I have fixed is, I think, the minimum that can be fixed for transactions of that description.

“I may again repeat, Sir, that other provinces have not at all regarded this sum of Rs. 20 as extravagant.”

Rao Bahadur A. S. KRISHNA RAO PANTULU:—“I believe, Sir, that the remarks of the hon. Member for Revenue are calculated to show that he did not want to prejudice those who had large interests at stake and who wished to draw up instruments of partnership for several thousands of rupees by introducing the gradation scale. I think it would have been certainly more logical and reasonable if there has been a gradation scale so as to correspond to the value of property involved in these instruments of partnership. If he had in view the cases of persons who draw up instruments of partnership for amounts between Rs. 500 and 600, it would appear to every one that the stamp duty in the former case should not be higher than that fixed for deeds of conveyance. In the case of deeds of conveyance, when the value exceeds Rs. 500 but does not exceed Rs. 600 it is fixed at Rs. 9; where it exceeds Rs. 600 but does not exceed Rs. 700, it is fixed at Rs. 10-8-0, and so on. It is therefore clear that to the extent to which we can think of instruments of partnership between Rs. 500 and Rs. 1,000, the amount of stamp duty prescribed is far in excess of the amount fixed for conveyances of the same value. Is it a state of things which can be accepted even in the interests of the poorer classes of persons for whom my hon. friend, the Member for Revenue, has shown considerable sympathy?”

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Schedule I-A, Article 39—*cont.*

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“ I am sorry, Sir, that my hon. Friend has lost sight of the main argument which I advanced, namely, that I did not wish to disturb the framework of the schedule attached to the existing Stamp Act. He is quoting conveyances as a sample, where you have a gradation scale. In the existing schedule itself there are gradations and I had merely to follow it.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“ The hon. Member for Revenue has not offered any explanation in reply to my argument. I am quite aware that in these cases he has not introduced a gradation scale. But the point which I wish to urge is this. Without fixing any gradation scale for persons who draw up deeds of partnership for values exceeding Rs. 500, the present Bill says that they are bound to pay Rs. 20 in each case, while even for conveyances they are called upon to pay much less than that amount, for values below Rs. 1,000. That is the position to which we have been reduced by adopting a scale whereby we have an all-round enhancement of stamp duty without in any way having a gradation scale which should have been adopted in the case of persons who draw up instruments of partnership for Rs. 1,000 and less. There is no strength in the argument advanced by the hon. the Revenue Member. It is certainly not unreasonable if the hon. the Revenue Member has come to his conclusion from any figures at his disposal showing that in a large number of cases the value involved in deeds of partnership is over Rs. 1,000. If the hon. the Revenue Member has any information at his disposal tending to show that in a large number of cases instruments of partnership are for large amounts and that Rs. 20 would be a reasonable stamp duty and if he furnishes us with that information, I have not the slightest objection to withdraw my motion. But if he cannot convince us that in a large number of cases large amounts are involved, I feel, Sir, that there is a strong case for reducing the amount of duty. If on the other hand he can furnish us with information showing that generally large values are involved in instruments of partnership, we will be in a better position to appreciate his arguments.”

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur. —“ I must confess, Sir, that I have not at the present moment fortified myself by the necessary statistics showing the distinction between partnerships of the value of Rs. 500 or more. But I would merely appeal to the personal experience of the hon. Member himself who in his capacity as a successful lawyer should have come in contact with a number of partnership deeds which are executed only where the property involved is of appreciable value, while in other cases, to avoid the stamp duty there is something like a settlement of account executed in an account book with a one anna stamp affixed thereto. These are within the personal experience of many people, which I may mention to the House.”

The amendment was then put to the House and lost.

Amendments 31 and 32.

The following amendments which stood in the name of Mr. P. Siva Rao were not moved and were therefore deemed to have been withdrawn :—

31. In the column headed ‘ Proper stamp duty ’ substitute ‘ three rupees twelve annas ’, ‘ fifteen rupees ’ and ‘ seven rupees eight annas ’ for ‘ five rupees ’, ‘ Twenty rupees ’ and ‘ ten rupees ’ respectively.

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Schedule I-A, Article 39—*cont.*

32. *Reduce the rates provided in the second column by 25 per cent throughout and make corresponding alterations accordingly.*

CLAUSE 13.

Clause 13 as amended was then put to the House, passed and added to the Bill.

THE PREAMBLE.

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—
“Sir, I beg to move that for the first draft in the Bill, the following words be substituted:

‘Whereas it is expedient to amend the Indian Stamp Act, 1899, in its application to the Presidency of Madras.’

“As I said, Sir, this amendment is merely intended for the purpose of elegance of expression.”

The hon. Sir Charles Todhunter seconded the motion.

The amendment to the preamble was put and carried.

The preamble as amended was then put to the House, carried and added to the Bill.

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—
“I now beg to move that the Bill as amended by the House be passed into law.”

The hon. Sir Charles Todhunter seconded the motion.

The motion was adopted and the Bill to amend the Indian Stamp Act, 1899, was passed into law.

IV—*cont.*A BILL TO AMEND THE COURT FEES ACT, 1870—*cont.*

The consideration of the above Bill was resumed.

The hon. Mr. K. SRINIVASA AYYANGAR:—“I move in clause 6, for the words ‘at the end of the first paragraph of sub-section 7

4 p.m. (iv) substitute the words ‘after the words “memorandum of appeal” in section 7, paragraph IV’. And for the words ‘according to the next succeeding clause’ substitute the words ‘in the manner provided for by the next succeeding paragraph.’

“Looking at the wording and arrangement of section 7 (iv) there was some difficulty and to make the wording clear this is introduced.”

Mr. C. P. RAMASWAMI AYYAR:—“I second it.”

The hon. the PRESIDENT:—“The references are presumably to the Bill as amended on the 13th and 14th instants.”

The motion was put to the House and carried.

The hon. Mr. K. SRINIVASA AYYANGAR:—“I now move that in clause 7, for the words ‘the following clause shall be added as 4-A’ substitute the words ‘between paragraphs IV and V the following paragraph shall be added as IV-A’. I merely want to make it clear as to where it should appear.”

Mr. C. P. RAMASWAMI AYYAR:—“I second it.”

The motion was put to the House and carried.

The hon. Mr. K. SRINIVASA AYYANGAR:—“I move, Sir, that in clause 13, Schedule I, article I in column I omit the words ‘and in article 2 of this schedule’. That fixes the *ad valorem* fees in certain classes of suits; in consequence of the amendment made in the House in article 2 of this schedule, this amendment which is consequential is necessary.”

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Mr. C. P. RAMASWAMI AYYAR :—"I second the motion."

The motion was put to the House and carried.

The hon. Mr. K. SRINIVASA AYYANGAR :—"I move the next motion, Sir: That in article 6-A for the words in the first column 'copy of judgment under the Code of Criminal Procedure' substitute the words 'copy or translation of a judgment or order of a criminal court'."

"A new article was added as 6-A in consequence of the amendment that was carried yesterday on the motion of Mr. Sivasankaram Pillai. A consequential change was necessary and that is carried out by the substitution of the words 'copy or translation of a judgment or order of a criminal court' which makes it clear what the term 'judgment' under the Code means. I have changed the words to be in conformity with the provisions of clause 6."

Mr. C. P. RAMASWAMI AYYAR (*Advocate-General*) :—"I second it."

The motion was put to the House and carried.

The hon. Mr. K. SRINIVASA AYYANGAR :—"Now, Sir, in consequence of the change in article 2 we have to change the heading in the schedule. Hon. Members will see at page 8 of Schedule I all the *ad valorem* fees leviable on suits in courts of small causes outside the Presidency town. What I am now proposing is the leaving out of the name 'courts' and substituting of the class of suits intended, so that it may be clear to what particular cases the schedule would apply. To that end, I move—

"In page 8, table of rates, omit all the words and figures after 'leviable' and substitute '(a) on plaints, etc., mentioned in article 1 of this schedule' and insert the following table of rates :—

[Here read table of rates on pages 9 to 12 of the Bill as amended by the Select Committee.]

"Plaints, etc., mentioned in article 1 includes plaints, written statements, pleadings including a set-off and counter-claim, and this schedule is only a computation of the fees payable in respect of suits to which article 1 applies."

Mr. C. P. RAMASWAMI AYYAR :—"I second the motion."

The motion was put to the House and carried.

The hon. Mr. K. SRINIVASA AYYANGAR :—"I now propose a similar amendment for the purpose of carrying into effect the computation of rates with regard to suits mentioned in article 2. The amendment is: to omit all the words and figures after '*ad valorem* fees' in page 9, and substitute 'leviable (b) on plaints, etc., mentioned in article 2 of this schedule' and insert the following table of rates :—

[Here read table of rates on page 8 of the Bill as amended by the Select Committee.]

Mr. C. P. RAMASWAMI AYYAR :—"I second the motion."

The motion was put to the House and carried.

The hon. Mr. K. SRINIVASA AYYANGAR :—"I now move, Sir, that this Bill be passed into law."

Mr. C. P. RAMASWAMI AYYAR :—"I second the motion."

The question that the Bill to amend the Court Fees Act be passed into law was put and carried.

The Bill as amended was passed into law.